

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Engineering and Construction Management

AGENDA DATE: September 13, 2011

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert, P.E., City Engineer X4423

DISTRICT(S) AFFECTED: 6

SUBJECT:

That the City Engineer is authorized to notify Smart Con, LLC of El Paso, Texas, that the City is terminating Contract No. 2011-221 for default pursuant to the provisions of Section 6.9.1 of the General Conditions of the Contract, due to contractor's failure to enter into a contract within 14 consecutive calendar days after receiving notice from the City of the acceptance of the bid and that the termination shall be effective as of September 13, 2011.

BACKGROUND / DISCUSSION:

Smart Con LLC notified the City that they were unable to perform the Blackie Chesher Handball Court project for the offered price of \$69,059.77. A companion item to this agenda item requests City Council to award the contract to the next lowest bidder, Allen Concrete, Inc. for the offered price of \$118,748.17.

PRIOR COUNCIL ACTION:

City Council awarded Contract No. 2011-221 to Smart Con, LLC on July 5, 2011.

AMOUNT AND SOURCE OF FUNDING:

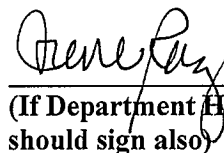
N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:


(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

WHEREAS, the City awarded Contract No. 2011-221 to Smart Con, LLC of El Paso, Texas, on July 5, 2011, for the construction award of Blackie Chesher Handball Court for the Community Development Department; and

WHEREAS, the City Council finds Smart Con, LLC is in default of the provisions of the Contract because Smart Con, LLC has not entered into a contract within fourteen consecutive calendar days after receiving notice from the City of the acceptance of the bid as required by the Information for Bidders 1-B-5 paragraph 9 and set forth in the bid documents; and

WHEREAS, pursuant to Section 6.9.1 of the General Conditions of Contract (Right of Owner to Terminate Contract) as set forth in the Solicitation, the City is authorized to terminate the Contract in the event of default; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Engineer is authorized to notify Smart Con, LLC of El Paso, Texas, that the City is terminating Contract No. 2011-221 for default pursuant to the provisions of Section 6.9.1 of the General Conditions of the Contract, due to contractor's failure to enter into a contract within 14 consecutive calendar days after receiving notice from the City of the acceptance of the bid and that the termination shall be effective as of September 13, 2011.

PASSED AND APPROVED this _____ day of _____, 2011.

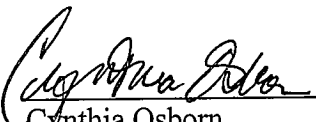
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

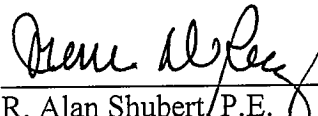
Richarda D. Momsen
City Clerk

APPROVED AS TO FORM:



Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:



for R. Alan Shubert, P.E.
City Engineer